

Applicant: Bozidar Ferek-Petric  
Serial No. 09/348,506  
Page 4

### REMARKS

In the non-final Office Action mailed 6 June 2005 pending claims 36-41 were rejected. In this Reply, no claims are canceled, claim 33 is herein amended and no new claims are presented. Thus, claims 36-41 are pending examination on the merits.

Applicant respectfully request entry and favorable consideration of the amendments and remarks contained herein.

### The Snell Reference

The Examiner has repeatedly attempted to apply U.S. Pat. No. 5,720,771 to Snell (Snell) in rejecting the pending claims. Applicant respectfully traverses the rejection as follows:

First of all, Snell is devoid of any teaching or suggestion regarding the notion of *bidirectional* communication between an implantable medical device (IMD) and an external station. In contrast, independent claim 36 now expressly recites a limitation regarding such bi-directional communication, unlike the present application. As an example, Snell uses the term "bidirectional" precisely once and even then only with reference to

The monitoring unit 10 can preferably perform more complex operations when connected to a more sophisticated central monitoring station 12. For example, if the central monitoring station 12 that is used has hardware that allows bidirectional communication with the monitoring unit 10, the central monitoring station 12 may be provided with control software that allows a staff member at the central monitoring station 12 to

Applicant: Bozidar Ferek-Petric  
Serial No. 09/348,506  
Page 5

request that a connected monitoring unit 10 send patient data to the central monitoring station 12 via the bus 26. (emphasis added.)

In contrast, support for this single materially distinguishing aspect of the claimed invention can be found with reference to the Summary portion; to wit:

A system permitting the remote communication with a medical device. The system particularly may permit the remote communication such that one or more device experts such as physicians and more experienced device users may be aware of the communication and provide guidance for the subsequent interpretation and programming of the device. The system may include a medical device adapted to be implanted into a patient; a server PC communicating with the medical device, the SPC having means for transmitting data across a dispersed data communication pathway (Internet); and a [sic] client PC having means for receiving data transmitted across a dispersed communication pathway from the SPC. In certain configurations the the [sic] server PC may have means for transmitting data across a dispersed data communication pathway (Internet) along a first channel and a second channel; and the client PC may have means for receiving data transmitted across a dispersed communication pathway from the SPC along a first channel and a second channel.

In addition, the present invention contemplates use of two different communication protocols for accomplishing inter-device network communications, with support found in the following passage (from page 9):

Regardless of the specific protocol used, first data stream is designed so that information (such as data or commands) which is sent from one computer to the other has a receipt which is sent in the opposite direction so that the transmission of the information is verified. Such a data stream transmission is reliable but has a relatively slow rate of data transfer. It warrants either delivery or failure notification, therefore being used for data such as commands to the server and messages to clients designating the server changes. It may also be used to send the calculated heart beat rate to the clients after each beat. As this message is sent periodically and rather often, it may serve as a periodical probe to measure the connection's reliability. As the Internet protocols will evolve, the system

Applicant: Bozidar Ferek-Petric  
Serial No. 09/348,506  
Page 6

may be adapted utilizing the more efficient protocol such as the Internet Protocol Version 6.

Second data stream transmits information using a different protocol. As seen, such a protocol has the transmission in only one direction, that is, this data channel does not transmit information having the returned receipt request, as required in first data stream. For this reason second data stream is relatively faster than first data stream, although has a lower degree of reliability since the actual receipt of the information cannot always be verified.

Since Snell does not contemplate neither bidirectional, substantive communication among an IMD and remote, external, network-linked devices nor use of at least two different communication protocols, Snell cannot fairly support the asserted combination of references.

Moreover, a fair reading of Snell makes it clear that Snell is a monitoring- and alert-providing system. Snell is replete with references to same, as could be inferred from the following: the term "monitor" was found approximately 57 times in the Field of the Invention and Claims of Snell; approximately 30 times in the Background of the Invention section; and approximately 49 times in the Summary section of Snell.

#### **Rejections Under 35 U.S.C. §103(a)**

For the foregoing reasons, Applicant strenuously asserts that Snell cannot be used as a primary reference in combination with Comer or Moore and as such should be withdrawn so that pending claims 36-41 can pass to timely issuance as U.S. Letters Patent.

Applicant: Bozidar Ferek-Petric  
Serial No. 09/348,506  
Page 7

**CONCLUSION**

Applicants respectfully suggest that all presently pending claims 36-41 of the instant application are now in condition for allowance. Applicants respectfully request reconsideration and prompt allowance of said claims. Please charge any additional fees or credit any overpayment to deposit account number 13-2546.

The Examiner is invited to telephone the below-signed attorney to discuss this application.

Respectfully submitted,

Date:

6 Oct 05

P. McDowall

Paul H. McDowall

Reg. 34,873

Telephone: (763) 514-3351

Customer No. 27581